99TH CONGRESS
1st Session

HOUSE OF REPRESENTATIVES

REPT. 99-133
Part 2

FIRST CONCURRENT RESOLUTION ON THE BUDGET FISCAL YEAR 1986

MAY 21, 1985.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

---

Mr. PEPPER, from the Committee on Rules, submitted the following

REPORT

together with

ADDITIONAL VIEWS

[To accompany House Concurrent Resolution 152]

The Committee on Rules, to whom was referred House Concurrent Resolution 152, having considered the same, report favorably thereon without amendment and recommend that the concurrent resolution do pass.

I. INTRODUCTION

Over the past several years, the Budget Committee has reported certain procedural matters in concurrent resolutions on the Budget citing the so-called elastic clauses of the Congressional Budget Act of 1974 (P.L. 93-344) as authority. The Committee on Rules, however, maintains jurisdiction over the Budget Act and over any proposals which affect the rules and procedures of the House. As it has the last two years the Committee requested a sequential referral of House Concurrent Resolution 152, which includes several matters which do affect Budget Act procedures, as part of its continuing effort to exercise its responsibility to review any proposed changes in budget procedures. In past years, the Committee has been greatly concerned about the extent of procedural changes proposed in budget resolutions by the Budget Committee. The Committee is pleased to note a decrease in the number of procedural provisions reported by the Budget Committee. Only three procedural provisions are included in House Concurrent Resolution 152. These in-

H683-5

clude: reconciliation instructions in the first budget resolution; an automatic second budget resolution; and scorekeeping procedures for off-budget spending programs if they are moved onto the unified budget. The first two of these matters have been included in the budget resolution for several years and have been carefully reviewed by the Committee in the past. The scorekeeping procedures for the off-budget programs seem appropriate in light of the President's proposal to include a number of off-budget programs in his budget proposal as if they were on-budget.

The Committee proposes no amendments to House Concurrent Resolution 152, because it believes that the Budget Committee acted carefully in proposing the limited procedural matters included in House Concurrent Resolution 152. The Committee commends the Budget Committee for the cautious manner in which it acted on procedural issues and for its cooperation with the Committee in assisting our review and consideration of these matters.

II. Jurisdiction of the Committee on Rules Over Budget Enforcement Procedures

The first budget resolution has been used as the vehicle for adoption of budget enforcement procedures. These procedures, including for example reconciliation instructions in a first budget resolution, and an automatic second budget resolution, affect the rules of the House, alter the Budget Act and affect the operations of almost every committee of the House.

Clause 1(q) of Rule X vests in the Committee on Rules legislative jurisdiction over all matters affecting the rules of the House, the joint rules, and the order of business. In addition, the Committee reported the Congressional Budget and Impoundment Control Act of 1974 (P.L. 93-344) and therefore possesses jurisdiction over any legislation affecting the operation of that Act in the Congress. The Committee has jurisdiction over budget procedures inserted in a first budget resolution which affect the rules of the House and the operation of the Act.

The Rules Committee may properly assert this jurisdiction, as it has in the present instance, by seeking and receiving a sequential referral of a first budget resolution for purposes of considering rulemaking provisions contained in it. Clause 5 of rule X requires sequential and other multiple referrals when appropriate "to assure to the maximum extent feasible that each committee which has jurisdiction under clause 1 over the subject matter of any provision thereof will have responsibility for considering such provisions and reporting to the House with respect thereto."

It its report on the First Concurrent Resolution on the Budget for Fiscal Year 1984 (H. Rept. 98-41, Part II), and its report on the First Concurrent Resolution on the Budget for Fiscal Year 1985 (H. Rept. 98-645, Part II) the Rules Committee explained the authority cited by the Budget Committee for including procedural changes in the first budget resolution. The authority rests on the so-called elastic clauses: section 301(a)(7), which provides that the first budget resolution may include such other matters relating to the budget as may be appropriate to carry out the purposes of the act; section 301(b)(1), which provides that a first budget resolution may

contain language deferring enrollment of all or certain spending bills under certain circumstances; and section 301(b)(2), which provides that the resolution may require any other procedure which is considered appropriate to carry out the purposes of the Act.

Even to the extent that sections of the Budget Act confer limited authority for the Budget Committee to report procedures, such authority does not confer juridiction. The actual jurisdiction continues to reside solely with the Committee on Rules. The committee has, without exception, received referral of all bills and resolutions paralleling the kind of provisions included in a concurrent resolution on the budget pursuant to sections of the Act. Further, the committee sought and received a sequential referral of the first budget resolution for fiscal year 1984 and a sequential referral of the first budget resolution for fiscal year 1985.

III. Section-by-Section Analysis or Procedural Changes Included in the First Concurrent Resolution on the Budget for Fiscal Year 1985

RECONCILIATION

Section 3 of House Concurrent Resolution 152 directs ten House committees to submit to the Budget Committee legislative recommendations to achieve specified savings in programs in their jurisdictions in FY 1986. Total fiscal year 1986 outlay savings from reconciliation equal $11 billion.

The ten committees receiving instructions are: Agriculture, Education and Labor, Energy and Commerce, Government Operations, Interior and Insular Affairs, Merchant Marine and Fisheries, Post Office and Civil Service, Public Works and Transportation, Veterans' Affairs, and Ways and Means. Committee are instructed to report no later than 30 calendar days after final action is completed on the budget resolution. The Budget Committee must then report an omnibus measure encompassing all the recommendations without substantive revision.

The reconciliation instructions also recommend amounts of savings in FY 1987 and 1988 to be made by the ten committees. Total three-year reconciliation savings equal $37.1 billion.

AUTOMATIC SECOND BUDGET RESOLUTION AND EXEMPTION

Section 4(a) of House Concurrent Resolution 152 provides that this resolution will be considered the second budget resolution, for purposes of section 311 of the Budget Act, if Congress does not complete action on a second budget resolution by October 1, 1985. Section 311 of the Act provides that a point of order will lie against a measure if that measure would breach spending and revenue levels in the second budget resolution.

Section 4(b) of the resolution automatically waives the section 4(a) point of order against a measure reported by a committee that has not exceeded its allocation of new discretionary budget authority or new entitlement authority made pursuant to section 302(a) of the Act. This exemption only applies if Congress fails to adopt a second budget resolution.

Section 4(c) of the resolution deals with off-budget spending and is explained below.

Section 4(d) provides that section 4 ceases to apply if Congress adopts a second budget resolution for FY 1986 or when Congress revises the FY 1986 budget resolution.

OFF-BUDGET SPENDING

Section 1 of the resolution provides "unified budget" totals for spending and divides the unified budget totals among twenty-one major categories. Certain spending, however, is excluded from the unified budget by law.

Section 2 of the resolution includes, for information only, combined on- and off-budget spending totals.

Section 4(c)(1) provides that, if legislation, is enacted which moves currently off-budget programs onto the unified budget, budget authority and outlays associated with such programs will not count against committee totals or the section 311 ceiling.

Section 4(c)(2) provides that the exception in section 4(c)(1) shall apply only to off-budget programs, and amounts of budget authority and outlays, specified in the House Budget Committee report on House Concurrent Resolution 152 (H. Rept. 99–133)

Section 4(d) provides that section 4 ceases to apply if Congress adopts a second budget resolution for FY 1986 or when Congress revises the FY 1986 budget resolution

IV. Rules Committee Views Regarding the Procedures Included in House Concurrent Resolution 152

RECONCILIATION INSTRUCTIONS

The Congressional Budget Act, in section 310, provides for reconciliation instructions to be included in a second budget resolution. The purpose of reconciliation instructions is to direct committees to make legislative recommendations to achieve savings in the programs under their jurisdiction or to direct the enrolling clerk to make changes in measures held at the enrollment desk under the deferred enrollment procedure outlined in section 301(b)(1) of the Act.

In 1980, after summit meetings among Members of Congress and representatives of President Carter, the decision was made to include reconciliation instructions in the first budget resolution for fiscal year 1981. This decision was based on the need for speedy, resolute action to reduce deficits. Reconciliation instructions have been included in every first budget resolution since then.

The Rules Committee participated in the initial decision to include reconciliation instructions in the first budget resolution and continues to approve the procedure in the light of the unprecedented deficits this nation faces. Reconciliation savings require changes in existing law and such changes are necessary if the overall objectives of the budget resolution are to be achieved.

The Rules Committee commends the Committee on the Budget for its restraint in making changes to the reconciliation process. The Budget Committee has properly refrained from instructing

committees to report changes in policy without direct budgetary impact.

AUTOMATIC SECOND BUDGET RESOLUTION AND EXEMPTION

The Budget Act, in section 310, requries Congress to adopt a second budget resolution. Moreover, Budget Act enforcement procedures, including reconciliation and the section 311 point of order, are triggered by the second budget resolution. Congress, however, has used the automatic second budget resolution since the first budget resolution for fiscal year 1984, and has employed the exemption for committees within their allocations since the fiscal year 1984 budget resolution.

This provision is necessary because the enforcement procedures of the Budget Act are based on the budgetary levels set by a second budget resolution. In the absence of this provision, if the Congress were unable to complete action on a second resolution, there would be no enforcement mechanism to prohibit legislation which exceeded the limits set in the first resolution. The Committee believes that this provision is consistent with efforts to ensure that the budgetary decisions made in adopting a budget resolution are reflected in the actual spending and revenue legislation subsequently enacted. The Committee also agrees that committees of the House which stay within their discretionary spending allocations should not be penalized if other committees exceed their allocations and endorses the exemption from the section 311 point of order for the committees that stay within their allocations.

OFF-BUDGET PROGRAMS

Budget authority and outlays for programs which have been excluded by law from the unified budget have traditionally not been included at all in budget resolutions. The following passage from the Joint Explanatory Statement accompanying the Conference Report on The Congressional Budget and Impoundment Act of 1974 (H. Rpt. 93-1101) has been taken as authority for this exclusion:

> The managers intend that the definition of "budget outlays" and "budget authority" for purposes of the congressional budget process be the same as that used for the executive budget and that any item which is excluded by law from the executive budget may be excluded from any specification of budget outlays or budget authority in the congressional budget process.

Because both the President and the Senate have included legally mandated off-budget spending in their budgets, and because off-budget spending does have a significant fiscal effect, the House Budget Committee has included in House Concurrent Resolution 152 a separate section 2 which does include off-budget spending. This section is clearly intended only for information purposes and to facilitate comparison of the House Budget Committee proposed budget resolution with Senate Concurrent Resolution 32, as passed by the Senate.

The spending levels specified in section 2 of House Concurrent Resolution 152 are not intended to be used for enforcement pur-

poses. The Budget Committee report on the resolution (H. Rept. 99–133) notes that the Committee does not make a recommendation whether off-budget entities should be brought on-budget. All enforcement provisions are based on the levels set in section 1.

Section 4(c) of House Concurrent Resolution 152, which is applicable unless Congress adopts a subsequent budget resolution for fiscal year 1986, provides that, if any legislation is adopted which causes certain specified currently "off-budget" spending programs to be included in the unified budget, the budget authority and outlays associated with those programs shall not be counted in determining whether legislation violates section 311 of the Congressional Budget Act. Section 311 of the Budget Act prohibits the consideration of legislation which would cause the spending limits set by the second budget resolution to be exceeded or the revenue floor to be breached. The twenty-four programs that are subject to this provision, and the amounts of budget authority and outlays that are assumed for those programs, are listed on page 72 of the House Budget Committee Report on H.Con.Res. 152 (H. Rpt. 99–133.)

This provision is considered necessary because the spending levels in House Concurrent Resolution 152 which will be used for enforcement purposes, exclude off-budget spending and are, therefore, lower than the levels which include off-budget programs. In the absence of the provision contained in section 4(c), if the Congress were to accept the proposal of the President and enact legislation to move several currently off-budget programs onto the unified budget, that action would squeeze out other spending programs. Spending that was not intended to be counted toward the enforceable limit (because it was off-budget) would be counted in determining whether the section 311 point of order would be triggered as soon as the currently off-budget program is brought onto the unified budget. Clearly, the enactment of legislation which has no effect other than to move a spending program on-budget should not trigger the section 311 point of order. An alternative to the language of section 4(c) which would also have kept such legislation from affecting the section 311 point of order would have been to adopt a complex scorekeeping procedure by which, if programs are moved on-budget, the enforceable spending limits would be increased by enough to cover those programs. Because such an approach would have been complex and confusing, the approach adopted, excluding such programs from the enforcement mechanisms of the Budget Act, was preferable.

V. Committee Consideration

The Committee on Rules met on May 21, 1985 to consider House Concurrent Resolution 152. The Committee heard testimony from Representative Gray, Chairman of the Budget Committee, on procedural matters in House Concurrent Resolution 152. By a voice vote, a quorum being present, the Committee order reported House Concurrent Resolution 152.

VI. Committee Cost Estimate

Clause 2(l)(3)(B) of rule XI requires each committee report on a measure providing new budget authority or increased tax expendi-

tures to contain any statement required by section 308(a) of the Congressional Budget Act of 1974. This measure does not provide new budget authority nor increase tax expenditures.

Clause 7(a) of rule XIII requires committees to include their own cost estimates in certain committee reports. Clause 7(d) of Rule XIII exempts the Committee on Rules; nonetheless, the Committee generally examines the costs that would be incurred in carrying out the legislation it considers. The Rules Committee consideration of House Concurrent Resolution 152 focused on enforcement procedures. The Committee points out that a concurrent resolution has no direct costs to the federal government.

VII. Inflationary Impact Statement

In compliance with clause 2(l)(4) of rule XI, the Committee on Rules includes the following inflationary impact statement. The enforcement procedures in House Concurrent Resolution 152 have no significant inflationary impact.

VIII. Committee Oversight Findings

In compliance with clause 2(l)(3)(A) of rule XI, the Committee on Rules includes the following summary of the Committee's oversight findings and recommendations. The Committee found, in its report on last year's budget resolution (H. Rept. 98–1159, Part II), that the budget resolution had been used to adopt novel and far-reaching budget enforcement procedures in an ad-hoc fashion. The Committee is pleased to report that House Concurrent Resolution 152 was developed in a spirit of cooperation and restraint. Two of the three enforcement procedures included have been tried in previous years with success. The off-budget provisions, the only new procedures, are redquired in response to the Administration's budget and the Senate resolution.

IX. Oversight Findings of the Committee on Government Operations

No findings or recommedations made, pursuant to clause 4(c)(2) of rule XI, by the Committee on Government Operations have been received by the Committee on Rules. Therefore, no summary pursuant to clause 2(l)(3)(D) of Rule XI is included.

X. Changes in Existing Law Made by House Concurrent Resolution 152

Clause 3 of rule XII requires the report of each committee on a bill or joint resolution to contain a comparative print relating to the measure. Since the budget resolution is a concurrent resolution, this provision does not apply.

XI. Changes in the Rules of the House by House Concurrent Resolution 152

Clause 4(d) of rule XI requires reports from the Committee on Rules, on resolutions amending the Rules of the House of Representatives, to contain a comparative print indicating changes in the existing rules. Although the concurrent resolution would make

minor changes in the procedures of the House, it would do so in a manner that does not directly amend the Rules of the House of Representatives.

XIII. Congressional Budget Office Cost Estimate

Clause 2(l)(3)(C) of rule XI, requires the Committee to include a cost estimate prepared, pursuant to section 403 of the Congressional Budget Act of 1974, by the Director of the Congressional Budget Office.

Section 403 requires the Director, "to the extent practicable", to prepare and submit an estimate and comparision on each bill or resolution of a public character. This provision does not apply to a concurrent resolution; therefore, no CBO estimate was prepared.

ADDITIONAL VIEWS ON HOUSE CONCURRENT RESOLUTION 152

In recent years, the Committee on Rules has been insisting on sequential referral of budget resolutions which include any procedures which go beyond those specifically prescribed by the Budget Act. While we have no objection to this kind of oversight and safeguard, we feel the Rules Committee also has some obligation to see to it that existing Budget Act procedures are complied with as well.

We would note, for instance, that the Budget Committee was a month late in reporting the first budget resolution: Sec. 301(d) requires the House and Senate Budget Committee to report on or before April 15 of each year; the report was filed May 20.

Secondly, the Budget Act provides in section 305(a)(1) that the budget resolution shall not be considered in the House until after the tenth day that the report has been available. The Rules Committee is granting a rule that will permit the consideration of the budget resolution just two days after the report was *filed.* We do not think this rush to the floor contributes to thoughtful deliberations.

Third, we would observe that the rule granted on the budget resolution for fiscal 1986 violates a policy followed by the Rules Committee for the last several years, and officially ratified by the Committee just last fall in the report on H.R. 5247, the "Congressional Budget Act Amendments of 1984" (H. Rept. 98–1152, Part 1). That policy is to only make in order macroeconomic budget substitutes, and to avoid line item amendments.

To quote from the majority report on that bill:

> The Committee, while recognizing that it cannot bind future Congresses, reaffirms its commitment to avoid line-item debate on the budget resolution and to limit duplication between the budget process and other congressional processes. *The Committee believes that rules for the consideration of budget resolutions should continue to focus debate on the major alternatives.* (H. Rept. 98–1152, p. 31)

We fully concur with that policy, and regret that the Rules Committee has abandoned it just seven months after it officially established it with the filing of that report in October of 1984.

In summary, we feel that the Rules Committee not only has an obligation to oversee new procedures that might be contained in budget resolutions, but to ensure the integrity and observance of existing Budget Act procedures as well. On at least three counts, the Rules and Budget Committees have failed to uphold the integri-

ty of the Act, and the policies and precedents which have grown up around it. Such circumvention can only undermine the credibility and viability of the budget process.

JAMES H. QUILLEN.
DELBERT L. LATTA.
TRENT LOTT.
GENE TAYLOR.

○